

Item #12: Proposal to amend LRCiv 83.3 to allow withdrawal of counsel by notice when other "firm" counsel remain on case representing party

[Proposed] LR Civ. 83.3

APPEARANCE BY ATTORNEY OR PARTY;

NAME AND ADDRESS CHANGES; CONTROL OF CAUSE

(a) **Attorney of Record; Duties of Counsel.** ~~Except as provided below, no attorney shall appear in any action or file anything in any action without first appearing as counsel of record. In any matter, even if it has gone to judgment, there must be a formal substitution or association of counsel before any attorney, who is not an attorney of record, may appear. An attorney of record shall be deemed responsible as attorney of record in all matters before and after judgment until the time for appeal expires or until there has been a formal withdrawal from or substitution in the case.~~

(b) **Withdrawal and Substitution.** With the exception of a change of counsel within the same law firm or governmental law office, ~~No~~ attorney shall be permitted to withdraw or be substituted as attorney of record in any pending action except by formal written order of the Court, supported by written application setting forth the reasons therefor together with the name, last known residence and last known telephone number of the client, as follows:

(1) Where such application bears the written approval of the client, it shall be accompanied by a proposed written order and may be presented to the Court *ex parte*. The withdrawing attorney shall give prompt notice of the entry of such order, together with the name, last known residence and last known telephone number of the client, to all other parties or their attorneys.

(2) Where such application does not bear the written approval of the client, it shall be made by motion and shall be served upon the client and all other parties or their attorneys. The motion shall be accompanied by a certificate of the attorney making the motion that (A) the client has been notified in writing of the status of the case including the dates and times of any court hearings or trial settings, pending compliance with any existing court orders and the possibility of sanctions, or (B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the motion and the status of the case.

(3) No attorney shall be permitted to withdraw as attorney of record after an action has been set for trial, (A) unless there shall be endorsed upon the

application therefore, either the signature of an attorney stating that the attorney is advised of the trial date and will be prepared for trial, or the signature of the client stating that the client is advised of the time and date and has made suitable arrangements to be prepared for trial, or (B) unless the Court is otherwise satisfied for good cause shown that the attorney should be permitted to withdraw.

(4) ~~Notwithstanding the provisions of paragraph (b) of this Local Rule, a governmental law office or a private or public law firm that has appeared as counsel of record may substitute or associate an attorney who is a member of, associated with, or otherwise employed by that office or firm by timely filing a notice of substitution or association with the Court. Where there has been a change of counsel within the same law firm or governmental law office, an order of substitution or association is not required; the new attorney must file a notice of substitution or association.~~ The notice shall state the names of the attorneys who are the subjects of the substitution or association and the current address and e-mail address of the attorney substituting or associating. An occasional court appearance or filing of a pleading, motion or other document as associate counsel at the request of an attorney of record shall not require the filing of a notice of substitution or association. Counsel substituted or associated pursuant to this paragraph must also comply with (b)(3) above.

(c) Applicability of Rules

(1) Anyone appearing before the court is bound by these Local Rules. Any reference in these Local Rules to 'attorney' or 'counsel' applies to parties not represented by an attorney unless the context requires otherwise.

(2) **Appearance by Represented Party.** Whenever a party has appeared by an attorney, that party cannot thereafter appear or act in that party's own behalf in the cause, or take any steps therein, unless an order of substitution shall first have been made by the Court after notice to the attorney of each such party, and to the opposite party. The attorney who has appeared of record for any party shall represent such party in the cause and shall be recognized by the Court and by all the parties to the cause as having control of the client's case, in all proper ways, and shall, as such attorney, sign all papers which are to be signed on behalf of the client, provided that the Court may in its discretion hear a party in open court, notwithstanding the fact that that party has appeared or is represented by an attorney.

(d) **Notice of Name and Address Changes.** An attorney or unrepresented party must file a notice for a name or address change, and an attorney must also file a notice of a change of firm name or e-mail address. The notice must be filed no later than fourteen (14) days before the effective date of the change, except that an